

DISCLAIMER

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**COMMONWEALTH OF VIRGINIA, ex rel.**

**TERRY L. STROCK, et al.**

**v.**

**CASE NO. PUE010716**

**B & J ENTERPRISES, L.C.**

**HEARING EXAMINER'S RULING**

**March 8, 2002**

Pursuant to the Small Water or Sewer Public Utility Act, § 56-265.13:1, et seq. of the Code of Virginia ("Act"), B & J Enterprises, L.C. ("B & J" or "Company"), notified its customers and the State Corporation Commission ("Commission") of its intent to increase its monthly sewer rates from \$40.00 to \$95.00, effective for service rendered on and after December 13, 2001. In response to a petition from B & J customers objecting to the proposed rate increase, the Commission suspended the Company's proposed rate increase for a period of 60 days, through February 10, 2002, by Preliminary Order issued December 12, 2001.

By Order entered January 30, 2002, the Commission authorized B & J, pursuant to the Act, to implement, on an interim basis and subject to refund with interest, its proposed rates for monthly sewer service, effective February 11, 2002. The Commission further directed that, as provided by § 12.1-31 of the Code of Virginia and the Commission's Rules of Practice and Procedure, 5 VAC 5-20-120, a hearing examiner be appointed to conduct all further proceedings in this matter on behalf of the Commission and to file a final report.

I am of the opinion and do hereby find, that a hearing and procedural schedule should now be established. Accordingly,

**IT IS DIRECTED THAT:**

1) A public hearing shall be held on June 17, 2002, commencing at 10:00 a.m., at the Blacksburg Town Council and Courtroom, 300 South Main Street, Blacksburg, Virginia, for the purpose of receiving evidence relevant to the Company's proposed rate increase.

2) On or before March 29, 2002, B & J shall file certain financial information with the Commission's Division of Public Utility Accounting. Such information shall include an income statement, balance sheet, cash flow statement based on utility operations for the calendar year ending December 31, 2001, the Company's most recent federal income tax return, and a rate of return statement with work papers supporting all proposed adjustments to book amounts which support the Company's proposed rate increase as

required by the Commission's Rules Implementing the Small Water or Sewer Public Utility Act (20 VAC 5-200-40 et seq.).

3) The Company shall promptly make a copy of all materials it files with the Commission available for public inspection during regular business hours at its office, 3807 Brandon Avenue, S.W., Suite 245, Roanoke, Virginia; and at the Montgomery-Floyd Regional Library, 200 Miller Street, Blacksburg, Virginia.

4) On or before April 10, 2002, the Company shall cause a copy of the following notice to be sent to each of its customers by first-class mail, postage prepaid (bill inserts are acceptable):

**NOTICE TO THE PUBLIC OF A HEARING  
ON THE PROPOSED CHANGE IN SEWER RATES  
OF B & J ENTERPRISES, L.C.  
CASE NO. PUE010716**

TAKE NOTICE THAT by letter dated October 26, 2001, B & J Enterprises, L.C. ("Company"), notified its customers, pursuant to the Small Water or Sewer Public Utility Act, § 56-265.13:1 et seq., of its intent to increase its monthly sewer rates from \$40.00 to \$95.00 effective December 13, 2001.

Pursuant to § 56-265.13:6 of the Code of Virginia, the State Corporation Commission ("Commission") allowed the Company's proposed increase in rates to go into effect on an interim basis and subject to refund with interest, effective February 11, 2002. The Commission has scheduled a hearing before a Hearing Examiner to begin at 10:00 a.m. on June 17, 2002, at the Blacksburg Town Council and Courtroom, 300 South Main Street, Blacksburg, Virginia, to receive evidence relevant to the Company's proposed rates.

PLEASE TAKE NOTICE THAT while the total revenue that may be approved by the Commission is limited to the amount produced by the Company's proposed rates, the rates and charges approved for each class of service may be either higher than or lower than those proposed by the Company.

A copy of the Company's proposed tariff and accompanying materials is available for public inspection during regular business hours at its office, 3807 Brandon Avenue, S.W., Suite 245, Roanoke, Virginia; and at the Montgomery-Floyd Regional Library, 200 Miller Street, Blacksburg, Virginia. A copy also is available Monday through Friday, 8:15 a.m. to 5:00 p.m. at the Commission's Document Control Center

located on the First Floor of the Tyler Building, 1300 East Main Street, Richmond, Virginia.

On or before April 24, 2002, any person who expects to submit evidence, cross-examine witnesses, or otherwise participate in the proceedings as a Respondent pursuant to Rule 5 VAC 5-20-80 B of the Commission's Rules of Practice and Procedure should file an original and fifteen (15) copies of a Notice of Participation with the Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218, and serve a copy upon the Company. All Notices of Participation shall contain: (i) a precise statement of the interest of the Respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action.

On or before May 10, 2002, each Respondent shall file with the Clerk of the Commission an original and fifteen (15) copies of prepared testimony and exhibits the Respondent intends to present at the hearing, and shall serve a copy on the Company and all other Respondents.

Any person desiring to comment in writing on the proposed rates may do so by directing such comments on or before May 20, 2002, to Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Box 2118, Richmond, Virginia 23218. Any person desiring to make a statement at the public hearing, either for or against the application, need only appear in the Blacksburg Town Council and Courtroom, 300 South Main Street, Blacksburg, Virginia, at 9:45 a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's Bailiff.

Persons interested in the full procedural details for this proceeding should obtain copies of the Commission orders and Hearing Examiner's rulings from the Clerk of the Commission, or from the Commission's Web site at:  
<http://www.state.va.us/scc/caseinfo/orders.htm>

Individuals with disabilities who require an accommodation to participate in the hearing should contact the Commission at 1-800-552-7945 (voice) or 1-804-371-9206 (TDD) at least seven (7) days before the scheduled hearing date.

All filings and written communications to the Commission regarding this case shall be directed to the Clerk of the Commission at the address set forth above, referring to Case No. PUE010716, and with a copy served on Daina T. Reynolds, Superintendent, B & J Enterprises, L.C., 3807 Brandon Avenue, S.W., Suite 245, Roanoke, Virginia 24018.

B & J ENTERPRISES, L.C.

5) The Company forthwith shall serve a copy of this Ruling on the Chairman of the Board of Supervisors of Montgomery County. Service shall be made by first-class mail or delivery to the customary place of business or to the residence of the person served.

6) On or before April 15, 2002, the Company shall file with the Clerk of the Commission proof of notice as required by paragraphs (4) and (5) of this Ruling.

7) On or before April 15, 2002, the Company shall file with Joel H. Peck, Clerk of the Commission, c/o Document Control Center, P. O. Office Box 2118, Richmond, Virginia 23218, an original and fifteen (15) copies of the prepared testimony and exhibits B & J intends to present at the public hearing and make a copy of the same available for public inspection as provided in paragraph (3) herein.

8) On or before April 24, 2002, any person desiring to participate as a Respondent, as defined in Rule 5 VAC 5-20-80 B, shall file with the Clerk of the Commission an original and fifteen (15) copies of a Notice of Participation as provided in Rule 5 VAC 5-20-150, and shall serve a copy on the Company. A Notice of Participation shall be sent to Joel H. Peck, Clerk of the Commission, at the address set forth in paragraph (7) above. Service upon the Company shall be made on Daina T. Reynolds, Superintendent, B & J Enterprises, L.C., 3807 Brandon Avenue, S.W., Suite 245, Roanoke, Virginia 24018.

9) Pursuant to Rule 5 VAC 5-20-80 B the Notice of Participation shall set forth: (i) a precise statement of the interest of the Respondent; (ii) a statement of the specific action sought to the extent then known; and (iii) the factual and legal basis for the action. Any corporate entity or governmental entity that wishes to submit evidence, cross-examine witnesses, or otherwise participate as a Respondent must be represented by legal counsel in accordance with the requirements of Rule 5 VAC 5-20-30.

10) Within two (2) days of receipt of any Notice of Participation, B & J shall serve on each Respondent a copy of all materials the Company has filed with the Commission.

11) Any person desiring to comment in writing on the Company's application may do so by directing such comments, on or before May 20, 2002, to Joel H. Peck, Clerk of the Commission, at the address set forth in paragraph (7) above. Such comment shall refer to Case No. PUE010716. Any person desiring to make a statement at the public hearing concerning the application need only appear in the Blacksburg Town Council and

Courtroom, 300 South Main Street, Blacksburg, Virginia at 9:45 a.m. on the day of the hearing and identify himself or herself as a public witness to the Commission's Bailiff.

12) On or before April 24, 2002, each Respondent shall file with Joel H. Peck, Clerk of the Commission, at the address set forth in paragraph (7) above, an original and fifteen (15) copies of any prepared testimony and exhibits the Respondent intends to present at the public hearing, and shall simultaneously mail a copy of the same to Daina T. Reynolds, Superintendent of B & J, at the address set forth in paragraph (8) above, and to each Respondent.

13) Appropriate members of the Commission's Staff shall investigate the reasonableness of the Company's proposed tariff and shall present their findings and recommendations in prepared testimony and exhibits which shall be filed on or before May 24, 2002. A copy of such testimony and exhibits shall simultaneously be served upon Daina T. Reynolds, Superintendent of B & J, at the address set forth above, and upon each Respondent.

14) On or before June 7, 2002, the Company shall file an original and fifteen (15) copies of all testimony it expects to introduce in rebuttal to all direct prefiled testimony and exhibits.

15) The Company and Respondents shall respond to written interrogatories within seven (7) business days after service. Respondents shall provide the Company, other Respondents and Commission Staff with any work papers or documents used in preparation of their filed testimony promptly upon request. Except as modified above, discovery shall be in accordance with Part IV of the Rules, 5 VAC 5-20-240 to 260.

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Howard P. Anderson, Jr.  
Hearing Examiner